

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JACOB S. KINNEY	:	CIVIL ACTION
	:	
v.	:	NO. 22-2566
	:	
COUNTY OF BERKS, WARDEN JANINE	:	
QUIGLEY, DEPUTY WARDEN	:	
STEPHANIE SMITH, SERGEANT MOREY,	:	
SERGEANT HUGGINS, LIEUTENANT	:	
SCHERE, CORRECTIONAL OFFICER	:	
MICHAEL EVANS, CORRECTIONAL	:	
OFFICER DARRAH HARLEY,	:	
CORRECTIONAL OFFICER BRENNA	:	
DELP, CORRECTIONAL OFFICER	:	
STONES, CORRECTIONAL OFFICER	:	
MERCADO, CORRECTIONAL OFFICER	:	
MICHAEL FERYO, CORRECTIONAL	:	
OFFICER CHRISTOPHER VOLLMER,	:	
CORRECTIONAL OFFICER REICHERT,	:	
CORRECTIONAL OFFICER WEIDNER,	:	
CORRECTIONAL OFFICER RUFFNER,	:	
PRIMECARE MEDICAL, INC., KENNETH	:	
R. WLOCZEWSKI, WILLIAM CATTELL,	:	
JESSE T. KIRSCH, CORINNE E. BERGER	:	

ORDER

AND NOW, this 6th day of June 2023, upon considering defendants' motions to dismiss (DI 16, 23), plaintiff's responses (DI 18, 25), PrimeCare Defendants' reply (DI 20), and for reasons in the accompanying Memorandum, it is ORDERED:

1. Defendants' motions to dismiss (DI 16, 23) are **GRANTED IN PART** and **DENIED IN PART** as specified below.

I. Count I (failure to provide adequate medical care)

- Correctional Defendants – Correctional Defendants' motion is denied.
- PrimeCare Defendants – PrimeCare Defendants' motion is granted without prejudice with respect to Dr. Wloczewski and Dr. Cattell. The motion is denied with respect to PA Kirsch and Ms. Berger.

II. Count II (civil rights conspiracy) – Defendants' motions are granted without prejudice.

III. Count III (*Monell*) – PrimeCare Medical, Inc.'s motion is denied.

IV. Count IV (failure to intervene)

- Correctional Defendants – Correctional Defendants' motion is denied.
- PrimeCare Defendants – PrimeCare Defendants' motion is denied.

V. Count V (intentional infliction of emotional distress)

- Correctional Defendants – Correctional Defendants' motion is granted without prejudice with respect to only Wardens Janine Quigley and Stephanie Smith. The motion is denied with respect to the other Correctional Defendants.
- PrimeCare Defendants – PrimeCare Defendants' motion is denied.

VI. Count VI (state law negligence) – Berks County's motion is granted with prejudice.



MURPHY, J.